

### **REMARKS**

This amendment is offered in response to the Office Action of May 10, 2004.

The Office Action rejected Claims 1-3 under 35 U.S.C. §102(b) as being anticipated by the Schweitzer reference (U.S. Patent No. 5,259,232). Similarly, the Office Action rejected Claim 4 under 35 U.S.C. §103(a) as being obvious over the Schweitzer reference in view of the Yochum reference (U.S. Patent No. 4,429,219).

It is respectfully submitted that as Claim 1 has been amended to include substantially the language from Claim 7 (not including the intervening claims), that the above two rejections are obviated.

The Office Action rejected Claims 5-7 under 35 U.S.C. §103(a) as being obvious over the Schweitzer reference, apparently in view of the Yochum reference and further in view of the Breitbarth reference (U.S. Patent No. 5,986,584).

It is respectfully submitted that neither the Yochum nor the Breitbarth reference disclose or suggest “a tension plate mounted adjacent to said at least one partially open passageway so as to bear upon said guide rod, said tension plate being mounted so as to impinge against said guide rod with a variable amount of force thereby varying frictional resistance between said slider assembly and said at least one guide rod”. It is further respectfully submitted that the Schweitzer reference, which discloses a “hand operated rebar bender and bend bar straightener” (see Abstract, line 1). In view of the fact that Claim 1 has been amended herein to recite the “cross fader apparatus”, it is respectfully submitted that there is a total absence of any teaching in the prior which would lead one of average skill in the art of cross faders to look to the art of rebar benders and combine the teachings of the Schweitzer reference with the teachings of the Yochum and Breitbarth references. It is further respectfully submitted that the combination of the

Schweitzer reference with the Yochum and Breitbarth references can only be accomplished with the benefit of the wisdom of hindsight gained through study of the present disclosure.

It is therefore respectfully submitted that the rejections of the claims have been overcome.

For all of the reasons above, it is respectfully submitted that all of the presently pending claims are in immediate condition for allowance. The Examiner is respectfully requested to withdraw the rejections of the claims, to allow the claims, and to pass this application to early issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald Levy", with a stylized flourish at the end.

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